

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

(E-Filed: February 10, 2012)

No. 03-295V

TONYA L. JARVIS)	
)	UNPUBLISHED
Petitioner,)	
)	Attorneys' Fees and Costs;
v.)	Reasonable Amount
)	Requested to which
SECRETARY OF HEALTH AND HUMAN)	Respondent Does Not
SERVICES,)	Object
)	
Respondent.)	
)	

Clifford J. Shoemaker, Vienna, VA, for petitioner.

Melonie J. McCall, Washington, DC, for respondent.

ATTORNEYS' FEES AND COSTS DECISION¹

CAMPBELL-SMITH, Chief Special Master

On February 7, 2003, Tonya L. Jarvis (“petitioner”), filed a petition seeking compensation under the National Vaccine Injury Compensation Program (“the

¹ Because this ruling contains a reasoned explanation for the undersigned’s action in this case, the undersigned intends to post this ruling on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b).

Vaccine Program”).² In the petition, petitioner alleged that she received a hepatitis B vaccination on October 2, 2000, and thereafter suffered from a rheumatological/skeletal injury, specifically, arthralgias (joint pain). Petition at 1.

After holding a fact hearing and a causation hearing in this case, the undersigned issued a decision dismissing the case on November 8, 2010, based on petitioner’s failure to establish that she suffered a vaccine-related injury. See Decision.

On June 7, 2011, the Court of Federal Claims affirmed the undersigned’s dismissal decision.³ See Opinion and Order. On June 8, 2011, judgment entered and the petition was dismissed pursuant to Vaccine Rule 30. See Judgment.

On December 5, 2011, petitioner’s counsel filed a first and final application for attorneys’ fees and costs. See Petition for Attorneys’ Fees and Costs. On February 8, 2012, the parties emailed the undersigned’s law clerk, indicating that:

- Respondent had no objection to petitioner’s out-of-pocket costs of **\$2,315.96**;⁴ and
- The parties were able to determine a reasonable amount of attorneys’ fees and costs of **\$71,608.82**, to which respondent would agree not to object.

See Email (Feb. 8, 2012, 6:28 PM).

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended, 42 U.S.C. §§ 300aa-10 et seq. (hereinafter “Vaccine Act” or “the Act”). Hereinafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

³ The opinion originally issued under seal on June 7, 2011. The parties did not request redaction of the opinion prior to its publication, pursuant to Vaccine Rule 18(b). Accordingly, the opinion was re-issued for publication, unsealed, on June 22, 2011.

⁴ This figure is \$0.02 lower than the figure originally requested in petitioner’s application for attorneys’ fees and costs. See Petition for Attorneys’ Fees and Costs. Pursuant to petitioner’s counsel’s representations in an email to the undersigned’s law clerk on February 9, 2012, petitioner’s counsel has agreed to the lower figure. See Email (Feb. 9, 2012, 11:55 AM).

The Vaccine Act permits an award of reasonable attorneys' fees and costs. § 15(e). Based on the reasonableness of petitioner's request and respondent's counsel's lack of objection to petitioner's counsel's fee request, the undersigned **GRANTS** petitioner's counsel's revised application for attorneys' fees and costs.

The undersigned awards a total of **\$73,924.78** in attorneys' fees and costs and petitioners' costs. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of court **SHALL ENTER JUDGMENT** in petitioner's favor in the amount of **\$71,608.82** for attorneys' fees and costs and **\$2,315.96** for petitioner's costs.⁵ The judgment shall reflect that Shoemaker & Associates may collect **\$71,608.82** from petitioner. Petitioner may retain **\$2,315.96** for costs borne by petitioner.

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Chief Special Master

⁵ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.